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10 *Attorneys for Defendants,*

11 *One West Bank, Fsb and Mortgage Electronic Registration Systems, Inc.*

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 HUMBERTO HERNANDEZ

15 Plaintiff,

16 vs.

17 ONEWEST BANK FSB as success in interest
18 to INDYMAC FEDERAL BANK FBS;
19 MORTGAGE ELECTRONIC
20 REGISTRATION SYSTEMS, INC. MERS., a
21 corporation licensed to do business in
22 NEVADA; REGIONAL TRUSTEE
23 SERVICES CORPORATION, a corporation
24 licensed to do business in NEVADA
25 DOES 1 THRU 100 INCLUSIVE,

26 Defendants.

Case No.: 2:11-cv-01461-KJD-PAL

**NOTICE OF NON-OPPOSITION TO
MOTION TO DISMISS FOR FAILURE
TO STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED, OR IN
THE ALTERNATIVE MOTION FOR
SUMMARY JUDGMENT**

27 Defendants ONEWEST BANK ("OWB") and MORTGAGE ELECTRONIC
28 REGISTRATION SYSTEMS, INC. ("MERS"), by and through their counsel Donna Osborn,
Esq., and Robin Prema Wright, Esq., of WRIGHT, FINLAY & ZAK, LLP, hereby provide
notice to the Court and all interested parties of Plaintiff, Humberto Hernandez's failure to file a
response in opposition to OWB and MERS' Motion to Dismiss for Failure to State a Claim

1 Upon Which Relief can be Granted or in the Alternative Motion for Summary Judgment (the
2 “Motion”) [Dkt. 10].

3
4 OWB and MERS filed the Motion on October 13, 2011, to which a response was due for
5 filing and service no later than October 30, 2011. To date, Plaintiff has failed to file a response or
6 request an extension of time to file a response to the Motion.

7 In light of no response to the Motion being filed, and in the interest of judiciary economy,
8 OWB and MERS request that this Honorable Court summarily grant the Motion pursuant to LR
9 7-2(d). Indeed, a party’s failure to timely file an opposition constitutes consent to the granting of
10 a motion. *See* LR 7-2-(d).

11 In accordance with LR 7-2(d), Plaintiff’s failure to oppose OWB and MERS’ Motion
12 constitutes consent to the granting of the Motion. OWB and MERS therefore request that the
13 Court immediately enter an order dismissing Plaintiff’s complaint.

14 DATED this 3rd day of November, 2011.

15
16 WRIGHT, FINLAY & ZAK, LLP

17
18 /s/ Donna M. Osborn, Esq.

19 Donna M. Osborn, Esq.

20 Nevada Bar No. 006527

21 5532 South Fort Apache Road, Suite 110

22 Las Vegas, NV 89148

23 *Attorneys for Defendants,*

24 *One West Bank, FSB and Mortgage Electronic*
25 *Registration Systems, Inc.*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of WRIGHT, FINLAY & ZAK, LLP; that service of the foregoing **NOTICE OF NON-OPPOSITION TO MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED, OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT** was made on the 3rd day of November, 2011, by depositing a true copy of same in the United States Mail, at Las Vegas, Nevada, addressed as follows:

Humberto Hernandez
7128 Desert Clover Ct.
Las Vegas, Nevada 89129

/s/ Erica Baker
An Employee of WRIGHT, FINLAY & ZAK, LLP